

**STATE OF NEW MEXICO**  
**LEGISLATIVE EDUCATION STUDY COMMITTEE**

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David Harrell, PhD, Deputy Director

**MINUTES**  
**LESC MEETING**  
**SEPTEMBER 14-16, 2009**

Senator Cynthia Nava, Chair, called the Legislative Education Study Committee (LESC) meeting to order at 9:25 a.m. on Monday, September 14, 2009, in the Board Room of Gallup-McKinley County Public Schools, 640 South Boardman, Gallup, New Mexico.

The following LESC members were present:

Senators Cynthia Nava, Chair, Mary Jane M. García, and Lynda M. Lovejoy; and Representatives Rick Miera, Vice Chair, Jimmie C. Hall, Dennis J. Roch, Mimi Stewart, and Jack E. Thomas.

The following LESC advisory members were present:

Senators Vernon D. Asbill, John Pinto, and Sander Rue; and Representatives Andrew J. Barreras, Ray Begaye, Nora Espinoza, Mary Helen Garcia, and Shirley A. Tyler.

Also in attendance was Senator George K. Muñoz.

**Approval of Agenda**

On a motion by Representative Stewart, seconded by Representative Hall, the committee unanimously approved the meeting agenda.

**Welcome and Introductions**

Senator Nava turned chairmanship over to Senator Lovejoy and Representative Begaye for introductions of representatives from local organizations.

Senator Lovejoy welcomed the committee to Gallup and recognized Senator George K. Muñoz, who assisted in making meeting arrangements. She introduced the following officials to offer welcoming remarks: Gallup Mayor Henry Mendoza; Mr. Paul Kraft, Director of Student Services at University of New Mexico-Gallup (UNM-Gallup); and Dr. Raymond Arsenault, Superintendent of Gallup-McKinley County Public Schools. Dr. Arsenault acknowledged the presence in the audience of several members of his staff: Mr. John Sanford, Associate

Superintendent for Business Services; Ms. Teresa Mariano, Associate Superintendent for Personnel; Mr. Max Perez, Acting Assistant Superintendent for Learning Services; Mr. Leonard Haskie, Assistant Superintendent for Support Services; and Mr. Tyrone Barlow, Director of Transportation Services. Senator Nava recognized Mr. Haskie's service on the Public School Capital Outlay Council. Senator Muñoz noted that Mr. Walter Bellman, principal of one of the schools in Gallup-McKinley County that made Adequate Yearly Progress, was in the audience.

### **GALLUP AREA ARTS EDUCATION PROGRAMS**

The Chair recognized Mr. Jeremy Boucher, Director of the Gallup Cultural Center, to describe the range of services provided at the center. He said the Center was housed in the historic, renovated train station turned over to the Southwest Indian Foundation by the City of Gallup. Among services provided by the center are children's scholarships and school awards programs, in which up to 50 schools and 800 students participate annually. The show is judged by successful local artists, awarding scholarships to winners and grants to their schools. The Best in Show winner is included in the center's Reunion of Masters exhibition each year. The center also has an arts outreach program funded by an anonymous donor that sends artists to provide multi-day workshops in local schools.

In addition to the annual Reunion of Masters show, the center has a museum that features a diverse array of traditional and contemporary New Mexico Indian visual art forms, jewelry, weaving, pottery, historical exhibits, and music and dance, as well as a café and gift shop. Mr. Boucher noted that, as part of its mission to lessen poverty among the Navajo, Zuni, Hopi, Laguna, Acoma, and Apache tribes of the Southwest, the center also directs some of the income generated from its gift and catalog sales and donates funds to operate projects aimed at improving the quality of life of area residents through improved housing, stove and fuel assistance, and access to water.

#### **Committee Discussion:**

In response to a committee member's question whether Gallup-McKinley County Public Schools has art instructors in every elementary school, Mr. Boucher stated that most of them do, but privately operated mission schools often do not. Senator Muñoz indicated that he believed the schools his children attended did not; and Superintendent Arsenault said that he was not sure. The topic was scheduled for the next school board meeting agenda.

### **MATHEMATICS, ENGINEERING, SCIENCE ACHIEVEMENT, INC. (MESA) PROGRAM REPORT**

Senator Nava recognized Mr. Toney R. Begay, Executive Director, New Mexico MESA Inc. (NM MESA), for a presentation on the program. Mr. Begay introduced Mr. Fred Youberg, Information Technology Manager, NM MESA, and Ms. Shawndean Parker, Western Region Coordinator, NM MESA. Mr. Begay said that the presentation would cover a longitudinal research study of NM MESA alumni, a description of NM MESA activities statewide, and data on NM MESA in the western region of the state, in particular in Native American communities.

First Mr. Youberg provided a description of the longitudinal study, which was conducted to determine if participation in the NM MESA program during high school affects student choices regarding:

- college attendance;
- college graduation;
- fields of study; and
- career choices.

Mr. Youberg explained that NM MESA contacted former students who were active in the program during their senior year of high school, and submitted lists of past NM MESA students to the National Student Clearinghouse to obtain data on college graduation rates and degree completion.

Mr. Youberg said that, of the NM MESA alumni contacted:

- 82 percent had enrolled in college, compared to 34 percent of students nationally and 30 percent in New Mexico;
- 55 percent had graduated from college, compared to 18 percent of students nationally and 14 percent in New Mexico; and
- of the MESA students who graduated from college, 88 percent graduated with a bachelor's degree or higher, compared to 29 percent of students nationally and 26 percent in New Mexico.

Mr. Youberg indicated that the top three fields in which alumni earned degrees were:

- engineering (29 alumni);
- education (27 alumni); and
- business (22 alumni).

Finally, Mr. Youberg said that NM MESA hoped to continue the longitudinal study over time to gather and refine more data.

Next, Mr. Begay provided an overview of the NM MESA program and its activities in the western region. He said that MESA was founded in 1970 at the University of California, Berkeley and that NM MESA was founded in 1982. The mission of the program, he said, is to empower and motivate New Mexico's culturally diverse students with science, technology, engineering, and math (STEM) enrichment. He noted that NM MESA provides:

- academic competitions (regional and statewide);
- field trips;
- college visits and counseling;
- scholarships; and
- teacher professional development.

He said that NM MESA serves over 5,000 students in 39 school districts, one pueblo, and 135 schools statewide; and that 61 percent of NM MESA students are Hispanic, 12 percent are Native American, 2.0 percent are African-American, and 25 percent are other ethnicities.

Mr. Begay reviewed NM MESA activity on and near Native American lands, and he noted that participation among Native American students has grown in recent years.

### **Committee Discussion:**

In response to committee members' questions how NM MESA is funded, Mr. Begay said that 79 percent of the funding comes from the Legislature, 14 percent from federal agencies, and the rest from donations from corporations and foundations. Mr. Begay also indicated that the memorandum of understanding that NM MESA signs with districts stipulates that the districts pay participating teachers \$2,000 per year and up to nine release days, and that NM MESA covers the costs for teachers' food, transportation, and supplies to participate in NM MESA activities, events, and competitions.

In response to a committee member's question whether NM MESA students may be more likely to attend college than the general population, Mr. Begay indicated that NM MESA had considered the question while conducting the study. He added that NM MESA works with both low- and high-achieving students and that the next phase of the study would be to look at the achievement of students currently in the program.

In response to a committee member's question whether NM MESA collects the unique student identification (ID) issued by PED for use in the Student Teacher Accountability Reporting System (STARS), Mr. Youberg indicated that NM MESA had just begun collecting the ID, which would facilitate tracking how NM MESA students do in college in New Mexico.

Finally, several committee members expressed support for the program and indicated that it may be an important way to encourage students to stay in school.

## **RESTRAINT AND SECLUSION OF STUDENTS**

Senator Nava recognized Ms. Nicole Parra-Perez, LESC intern, to present a staff report on restraint and seclusion of students. Ms. Parra-Perez introduced several people available to respond to questions: Ms. Denise Koscielniak, Program Director, Special Education Bureau, and Mr. Albert Gonzales, Legal Counsel, Special Education Bureau, Public Education Department (PED); Ms. Jacqueline Archuleta-Stalin, Cuddy Law Firm; and Ms. Julie Garcia, Poms and Associates Insurance Brokers, Inc. Ms. Parra-Perez also noted that a number of other interested parties were in the audience, among them: Ms. Tara Ford, Co-director, Pegasus Legal Services for Children; and Ms. Nancy Koenigsberg, Legal Director, Disability Rights New Mexico.

Ms. Parra-Perez first explained that the focus of the staff report was students in special education and students covered by Section 504 of the federal *Americans with Disabilities Act*. Then she played for the committee a video entitled *Restraint and Seclusion Behind Closed Doors*. Based on the national report *School Is Not Supposed to Hurt*, this video depicted restraint and seclusion practices in a number of schools across the country. Ms. Parra-Perez mentioned that, although New Mexico was not featured in the video, it was included in the full report along with 33 other states.

Ms. Parra-Perez explained that the practices of restraint and seclusion of children are mentioned in the *Children's Code*, but the *Children's Code* does not apply to students in public and private

schools, only children in hospitals or psychiatric residential treatment or rehabilitation facilities. Ms. Parra-Perez reported that, according to PED, the *Public School Code* does not include provisions specific to restraint and seclusion; however, PED had released two guidance memoranda on the issues:

- in 2003, “Use of Time-Out Rooms as a Behavioral Intervention”; and
- in 2006, “Use of Physical Restraint as a Behavioral Intervention for Students with Disabilities.”

According to a PED news release in May 2009, Ms. Parra-Perez stated, New Mexico leads other states in providing guidance and training regarding restraint and seclusion; however, she added, advocate groups have raised concerns as to whether law should address the issue.

In May 2009, Ms. Parra-Perez continued, the US Government Accountability Office (GAO) released the report *Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers*. Among its findings, the GAO report indicates that:

- federal laws restricting the use of seclusion and restraints in public and private schools do not exist;
- state laws are widely divergent;
- hundreds of cases of alleged abuse and death related to the use of restraint and seclusion have resulted in criminal convictions, findings of civil or administrative liability, or large financial settlements in the past 20 years;
- 19 states, including New Mexico, require parents to be notified after restraints have been used;
- 17 states, including New Mexico, require that selected staff receive training before being permitted to restrain children; and
- not a single governmental website or agency collects information on the use of these methods or the extent of their alleged abuse.

Ms. Parra-Perez explained that, in response to the GAO findings, US Education Secretary Arne Duncan sent a letter to chief state school officers encouraging each state to review its current policies and guidelines regarding the use of restraint and seclusion techniques in schools and, if appropriate, to develop or revise them to ensure the safety of students.

Among other recommendations, Secretary Duncan encouraged states to:

- develop or review and, if appropriate, revise state policies and guidelines to ensure that every student in every school under state jurisdiction is safe and protected from being unnecessarily or inappropriately restrained or secluded;
- publicize these policies and guidelines so that administrators, teachers, and parents understand and consent to the limited circumstances under which these techniques may be used;
- notify parents when these events do occur;
- provide resources needed to implement the policies and hold districts accountable for adhering to the guidelines; and
- establish revised policies and guidance prior to the start of school year 2009-2010.

Ms. Parra-Perez said that the advocacy group Pegasus Legal Services for Children recently sent a public records request to all 89 school districts in the state to analyze the use of time-out rooms and restraint in New Mexico schools. The survey results were sent to PED once compiled. At the request of the LESC staff a collective statement of all advocate groups was compiled.

Ms. Parra-Perez reported that in order to ascertain if training was conducted outside of PED, LESC staff contacted the Cuddy Law Firm, which indicated that training was conducted by the firm annually or upon request. A staff attorney indicated that after training two guidance documents by the Cuddy Law Firm are left with the districts.

Finally, Ms. Parra-Perez reported that, as a policy option, the committee may wish to consider introducing a memorial in the 2010 legislative session requesting PED to form a work group to examine the issues and concerns related to restraint and seclusion of public school students in collaboration with directors of special education and other appropriate school personnel, advocacy group representatives, parents, and other appropriate stakeholders; and to report findings and recommendations to the LESC in the 2010 interim.

### **Committee Discussion:**

In response to a committee member's question regarding training and reporting of the use of restraint and seclusion, Ms. Koscielniak responded that a report must be written on the use of restraint no later than two days after it is used, and that parents are notified verbally the day of the incident. She also mentioned that a hands-on training is done annually so that school personnel may maintain their certification.

In response to a committee member's question whether there is any movement toward language in federal law regarding these two issues, Ms. Ford responded that there is a proposed regulation to require states to provide information on the use of restraint and seclusion.

In response to a committee member's questions regarding the intersection between an individualized education program (IEP) for special education students and the use of restraint and seclusion, Ms. Archuleta-Stalin noted her suggestion to school staff that they examine ways to encourage or discourage a particular behavior depending on each child as an individual. She added that the circumstances under which restraint and seclusion may be used are sometimes included in an IEP plan based on the individual student's need.

Finally, a number of committee members expressed their support for creating a task force for further study of this issue.

### **RESIDENTIAL TREATMENT CENTERS: IMPLEMENTATION OF LEGISLATION**

Senator Nava recognized Ms. Pamela Herman, LESC staff, to provide a presentation on the implementation by the Public Education Department (PED) and the Children, Youth and Families Department (CYFD) of legislation endorsed by the LESC and passed in 2009 regarding residential treatment centers (RTCs). Ms. Herman introduced audience members available to respond to committee questions, including, from PED, Mr. Albert Gonzales, Office of General Counsel; Ms. Denise Koscielniak, Bureau Chief, Special Education Bureau; and Ms. Minerva

Carrera, Data Collecting and Reporting Chief; and from the Cuddy Law Firm, Ms. Jacqueline Archuleta-Stalin, Attorney.

Ms. Herman summarized the provisions of law passed in 2009. She began by noting that the statute defined two mutually exclusive categories of students: qualified students and school-aged persons. She said that, although the act defines a qualified student as a public school student, subsequent subsections deal only with students who qualify for special education under state and federal law. A school-age person under the act is defined as one who qualifies for special education but is *not* a New Mexico public school student. Therefore, she said, the act does not appear to shed any light on the situation of non-special education students in RTCs.

According to Ms. Herman, a key provision of the statute is an explicit statement that the school district where a private, nonsectarian, nonprofit RTC is located is considered the resident school district of a school-aged person if residency is based solely on the student's enrollment in the facility, and the student would not otherwise be considered a state resident. She explained a one-page flow chart attached to the report that showed how the statute assigns responsibility for planning, delivering, and paying for educational services to special education students in RTCs, depending upon which definition they met and who placed them in the facility.

Ms. Herman also reviewed the new duties the law imposed upon PED to promulgate rules to implement the statute, to oversee agreements between school districts and RTCs, to conduct on-site evaluations of programs and student progress at RTCs, and to adopt a format for reporting individual student data and the cost of services provided pursuant to individualized education programs (IEPs). She said that PED staff had reported making the necessary changes in the Student Teacher Accountability Reporting System (STARS) in spring 2009 and training school district personnel to enter the required student data properly.

Ms. Herman stated that the 2009 bill also amended the *Children's Code* to require CYFD to include in its minimum standards for RTCs a requirement that the center make reasonable provision for adequate physical space for a school district to provide a free and appropriate public education (FAPE) to its students. She said that CYFD reported it had not yet begun to discharge this duty by amending agency rule, but would do so immediately, first by convening focus groups with providers and other stakeholders.

Ms. Herman directed the committee's attention to a list that CYFD had provided showing 24 licensed RTCs in New Mexico, six fewer than the list provided a year earlier. She said that one of the names no longer on the list was Rancho Valmora, a private RTC located near Wagon Mound, which was closed in summer 2009 by its owner, Social Learning Environments, Inc. Ms. Herman said that media reports about the closure indicated that approximately 90 percent of the students at Rancho Valmora were from out of state, and that passage of the 2009 RTC legislation had threatened the loss of up to \$1.0 million in annual revenue to the program from state funds. Ms. Herman stated that the superintendent of Wagon Mound Public Schools, which previously transferred those state funds to Rancho Valmora pursuant to a memorandum of understanding, said that because public school funding was based on prior-year numbers, Wagon Mound Public Schools would not see reduced funding until FY 11 and that for school year 2009-2010 the district could operate without emergency supplemental funding. Ms. Herman said that in FY 09 the school district received approximately \$500,000 in emergency supplemental funds from PED, and that the superintendent expected it would need emergency funds again in FY 11.

Senator Nava recognized Mr. Gonzales, who reported that PED was in the process of amending its special education rule to reflect the requirements of the new statute, as well as to align with recent changes to the federal *Individuals with Disabilities Education Improvement Act* (IDEA), and that the department would hold a public hearing on the rule on November 2, 2009 in Santa Fe.

### **Committee Discussion:**

In response to a committee member's question regarding the state's responsibility for a student placed in a New Mexico RTC by an out-of-state parent at the direction of an out-of-state court, Ms. Herman stated her belief that the parent would be responsible for those costs, except for the student's proportionate share of federal IDEA Part B funds, which the statute directed the district where the RTC was located to allocate and distribute to the RTC.

In response to a question from the Chair about how a school district should handle a situation in which it sent its personnel to the RTC to provide services to students, some of whom were that district's responsibility and others of whom were not, Ms. Herman said that she believed the statute required PED to clarify this situation in its rule-making and through the oversight authority it had under law for agreements between school districts and RTCs.

In response to a question from the Chair regarding who was responsible for recouping payment to a school district from other parties responsible to pay, Ms. Herman stated that, in the case of a New Mexico student, the statute placed the duty to determine which district was responsible, and the reasonable cost of reimbursement, on PED. She agreed that recouping costs might prove to be uncharted territory because some superintendents had told LESC staff that in the past they had been providing services to students from other districts without reimbursement.

In response to a question from the Chair regarding whether PED anticipated that school districts could recoup funds they had spent to provide services to other districts' students at RTCs before the new rule was promulgated and memoranda of understanding were approved by PED, Mr. Gonzales said that the statute should apply to all placements since its effective date of July 1, 2009.

Senator Nava observed that, in the past, out-of-district students in RTCs generated funding for the district providing services through the state equalization guarantee (SEG); and that if they no longer did so, the situation might actually be aggravated by the new law. Ms. Herman said the statute required local districts to keep track of those students in STARS, although that usually occurred only four or fewer times per year, and that day-to-day accountability for these students was still an issue. Ms. Ramírez-Maestas noted that the State of Colorado and some other states had developed systems for monthly billing that permitted accountability down to the half-day, and she suggested that New Mexico may need to adopt such a system.

In response to a question from a committee member regarding the legal force of an IEP for a student sent to New Mexico from another state, Mr. Gonzales said that federal special education regulations provide that, if a student transfers from another state, the receiving school district must provide a FAPE to the student either by implementing the existing IEP or by developing a new one. Ms. Herman noted that state law now requires the district in which the RTC is located to plan and deliver services, although not to pay for them.



In response to an observation by a committee member that the new law does not appear to address every situation and that some of those situations could be addressed in rule, Mr. Gonzales said that PED's rule-making authority does not extend beyond the powers explicitly provided to it in law. He added, however, that, because the statute is very new, the department would probably need some experience operating under the new rule before coming back to the Legislature for changes to the law.

In response to a question from a committee member when a school district would be required to distribute to an RTC just the proportionate share of federal IDEA money for a student, Mr. Gonzales said that distribution would occur when a parent placed the student in a private RTC. Ms. Koscielniak said that PED conducted the official private school (including private RTC) count on December 1 and that funds were allocated to districts based on prior-year numbers. She added that IDEA requires "meaningful consultation" between a school district and a private school or RTC to develop a "service plan" but not a full-blown IEP for the student.

In response to a question from the Chair whether PED rule-making would address past inconsistencies in level of service classifications of students in RTCs, Ms. Koscielniak said that the IEP team must determine level of service and that students in private facilities should not automatically be classified at D level, although that had previously sometimes been the practice.

In response to a question from the Chair how local districts should deal with regular education students placed in RTCs within their boundaries for a few weeks or months, Mr. Gonzales said that because a student without an IEP was present in the school district, New Mexico law makes the district where the facility is located responsible for educating the student. He added that such a student was likely placed in the RTC by a parent and disenrolled from the home district.

The Chair noted that a student not present on a STARS count date would not generate SEG funds for the district the following year. She pointed out that even a student counted in STARS who was not identified for special education still required very expensive educational services, such as minimal class size, because of his or her special needs. The Chair also observed that the census for an RTC might fluctuate, but the school district must pay the staff it keeps on contract to serve its students even if the census drops to zero.

In response to a question from the Chair about the impact of an RTC on the adequate yearly progress (AYP) performance of a school district in which it was located, Ms. Carrera noted that, unless students were present in the RTC for a full academic year, their performance on the state assessments would not count in the district's AYP calculations.

The Chair recognized Ms. Archuleta-Stalin, who testified that, as counsel both for school districts and private RTCs, she believes the statute contains a contradiction because it makes the district in which an RTC is located responsible for planning and providing services for students whose costs were the responsibility of other districts or states. She said that actually collecting payment from foreign districts could be problematic because the statute does not eliminate the requirement to provide the services, just the funding necessary to do so. Ms. Archuleta-Stalin claimed, in addition, that there might be a federal equal protection problem with the statute because it treats special education students differently from regular education students.

In response to a concern raised by a committee member that some private facilities were charging parents for services that school districts were providing from SEG funds,

Ms. Archuleta-Stalin agreed that, where a parent was paying a private RTC for educational services, some portion at least of that payment should be refunded to the school district.

In response to a question from a committee member about the potential double funding where a private RTC was associated with a public charter school, Dr. Lisa Grover, Chief Executive Officer, New Mexico Coalition for Charter Schools, said that a public charter school must accept students from all over the city, not just those from the RTC, and that it would be operated separately.

Representative Stewart requested that Dr. Grover provide the committee with information clarifying whether payments received by the Desert Hills RTC for room, board, and treatment were duplicated by state funds for the education those students received at Desert Hills Charter School.

The Chair requested that the proposed PED rule implementing the 2009 law be placed on the agenda for the October LESC meeting so the committee could judge whether it addressed the committee's concerns, or if changes to the statute needed to be considered.

## **COMMUNITY INITIATIVES**

### ***a. Navajo Nation Department of Diné Education***

Senator Nava recognized Mr. Andrew Tah, Superintendent, Navajo Nation Department of Diné Education, to discuss recent initiatives in Diné Education. He explained that education is very important to the Navajo people. In 2005, he said, the Navajo Nation Council passed the *Navajo Sovereignty in Education Act*, which established the Navajo Nation's first ever Department of Education, of which he is the superintendent.

Mr. Tah explained that, since the law passed, the Navajo Nation has been planning its educational system, creating a school board, and beginning negotiations to collaborate with state and federal educational agencies. He emphasized that the educational system will incorporate Diné culture and traditions, all with the ultimate goal of providing children with the kind of educational programs and success that will help them contribute meaningfully to a global community.

### **Committee Discussion:**

Several committee members thanked Mr. Tah for his presentation and urged him to work closely with the Public Education Department (PED) to use available resources, particularly the dollars in the Indian Education Fund administered by PED.

### ***b. Middle College High School***

Mr. Wally Feldman, Principal, provided a description of the Middle College High School, a charter school that hosts grades 10 through 12 and is located at the University of New Mexico-Gallup (UNM-Gallup) campus. He explained that the 60 students at the high school also take college classes, and that it is possible to graduate from the high school with enough college

credits for an associate's degree. He said that the school serves students for whom regular high school is not a good fit.

### **Committee Discussion:**

In response to a committee member's question what would prevent the school from expanding, Mr. Feldman indicated the issue was limited space. He said that approximately 18 students were on a waiting list and that they may have to wait a year or more to enroll in the school.

In response to a committee member's question about the number of faculty members the high school has, Mr. Feldman indicated that the school has two full-time staff members who teach and tutor students.

Senator Nava noted that the committee had visited the Middle College High School shortly after it opened.

There being no other business, the Chair, with the consensus of the committee, recessed the LESC meeting at 4:55 p.m.

## **MINUTES LESC MEETING SEPTEMBER 15, 2009**

Senator Cynthia Nava, Chair, called the Legislative Education Study Committee (LESC) meeting to order at 9:25 a.m. on Tuesday, September 15, 2009, in the Board Room of Gallup-McKinley County Public Schools, 640 South Boardman, Gallup, New Mexico.

### The following LESC members were present:

Senators Cynthia Nava, Chair, Mary Jane M. García, and Lynda M. Lovejoy; and Representatives Rick Miera, Vice Chair, Jimmie C. Hall, Dennis J. Roch, Mimi Stewart, and Jack E. Thomas.

### The following LESC advisory members were present:

Senators Vernon D. Asbill, John Pinto, and Sander Rue; and Representatives Andrew J. Barreras, Ray Begaye, Nora Espinoza, Mary Helen Garcia, and Shirley A. Tyler.

Also in attendance was Senator George K. Muñoz.

## **P-20 LONGITUDINAL DATA SYSTEM UPDATE**

### ***a. Implementation of Provisions in Law***

Senator Nava recognized Ms. Eilani Gerstner, LESC staff, for a report on the implementation of a statewide pre-kindergarten through post-graduate (P-20) longitudinal education data system. Before beginning her report, Ms. Gerstner acknowledged individuals in the audience who were

present to address committee questions, including Ms. Tyler Weldon, Director of Planning and Research, Higher Education Department (HED); and Ms. Minerva Carrera, Program Manager, Data Collection and Reporting Bureau, Information Technology Division, Public Education Department (PED).

Ms. Gerstner began by explaining that the 2005 Legislature included language and dollars in the *General Appropriation Act* to establish a data warehouse at PED to begin to collect and store student, teacher, course, testing, and financial data in one system. Since 2005, she said, the Legislature has supported the implementation of this data system, known as the Student Teacher Accountability Reporting System (STARS), with appropriations of approximately \$14.7 million (including \$1.0 million for FY 10) to PED, including four full-time equivalent positions.

Ms. Gerstner also noted that the requirements for a common public education and higher education student identification (ID) number began in 2004 with the enactment of LESC-endorsed legislation:

- in 2004, to require PED to issue a state ID number for each public school student as part of the state's assessment and accountability system; and
- in 2007, to require HED to use the PED-issued student ID number for students enrolled in higher education in order to facilitate longitudinal research.

Ms. Gerstner said that, PED and HED report that this student identifier is now more commonly referred to as the Unique ID.

Next, Ms. Gerstner described components of the P-20 system. She explained that school districts, PED, HED, and postsecondary institutions all maintain education data systems that together contain the data that will make up a P-20 data system in New Mexico. Attachment 2, *Components of the P-20 Data System*, she said, provides a diagram of these data systems and illustrates how they currently share data. She reviewed the data systems in Attachment 2 and identified the following issues:

- Unique ID System: PED reports that when two students in different school districts share the same name, ethnicity, and birth date, they can sometimes be assigned with the same Unique ID number. PED staff report that these errors are usually caught on the December 1<sup>st</sup> special education data submission, when PED generates a list of all students and can see students with the same name and Unique ID in different districts.
- PED: STARS: In August 2009, the LESC heard a report on the implementation of high school redesign measures in law. An issue raised in that report was that, while STARS contains data on course enrollments, it does not contain final student grades for all courses and therefore cannot track course completion. This limitation poses a technical difficulty when trying to track at the state level whether students have met graduation and other course requirements in law.

In response to this issue, she said, PED reports that the department is considering drafting a rule to require districts to report final course grades into STARS while protecting students' rights under the *Family Educational Rights and Privacy Act* (FERPA), which protects individual student information or information on groups of students fewer than

10 from being divulged even if the identities of students are masked. PED reports that a draft rule may be available in 2010.

- PED: AS 400 Educator Licensure Data System: PED reports that the licensure system has recently been updated to include all degree institutions and the preparing institution for each teacher; however, PED reports that the preparing institution is one piece of data that is not uploaded into STARS. In order for the educator accountability reporting system (EARS) to be reported into STARS, this data element may need to be reported into STARS as well.
- HED's Data Editing and Reporting (DEAR) system: HED reports that the software upon which DEAR runs is out-dated and technical support is no longer available for it; however, several requests for upgrades to the system have been unsuccessful.

Next, Ms. Gerstner reviewed the progress of the implementation of the Unique ID in higher education, including the results of a survey of postsecondary institutions conducted by LESC staff. She also provided an update of issues that were raised in the 2008 LESC staff report. One issue still unresolved is that:

- community colleges' open enrollment policies do not currently require high school transcripts for admission. In this instance, even if the transcripts did contain the Unique ID number, the community college would need some other mechanism for obtaining the ID. On this point, Ms. Gerstner continued, of the eight out of the 11 branch and community colleges that responded to the LESC survey:
  - three indicated that they always require transcripts;
  - two indicated that they never require transcripts (one of these indicated, though, that they usually receive them);
  - one indicated that they had previously always required transcripts, but as of academic year 2009-2010 were no longer requiring them because asking for high school transcripts was proving to be a barrier for returning students; and
  - two indicated that they require transcripts for new freshmen or degree-seeking students, but not for non-degree-seeking students.

Ms. Gerstner also summarized the creation of the New Mexico Data Warehouse Council, created by executive order in June 2009 and charged with, among other duties:

- by December 31, 2009 establishing a longitudinal data system that meets the requirements of the *American Recovery and Reinvestment Act of 2009* (ARRA) and ensures that New Mexico can meet the collection and use of data and other education reform assurances contained in that act; and
- developing a high-quality statewide proposal that can be submitted to the US Department of Education (USDE) in response to a request for applications for grants for developing statewide data systems, which is due by November 19, 2009.

Finally, Ms. Gerstner said, in light of issues raised in the report, the committee may wish to consider the following policy options:

- (1) Write a letter to PED requesting that teachers' preparing institution be reported into STARS from the licensure data system.
- (2) Write a letter to HED, PED, the New Mexico Association of Community Colleges, and the New Mexico Independent Community Colleges requesting that they form a work group to develop solutions for reporting students' Unique IDs to those branch and community colleges that do not require high school transcripts.
- (3) Reintroduce legislation in the 2010 legislative session to codify the reporting requirements for a P-20 data system.

### **Committee Discussion:**

In response to a committee member's question whether STARS and DEAR would be able to share data, Ms. Weldon replied that HED staff would pull "key data elements" as requested by the Legislature, and she noted that uploading higher education data into STARS appeared to be a large task that posed an administrative burden to staff.

In response to a committee member's question whether postsecondary institutions could assign or look up Unique IDs for students, Ms. Carrera noted that the Children, Youth and Families Department staff generate IDs for students in the pre-kindergarten program, but postsecondary institutions do not have access to the Unique ID system.

A committee member expressed concern regarding tracking course grades and graduation requirements in STARS, particularly with regard to the graduation requirement to take four units of mathematics including Algebra II or higher, in effect beginning with students entering grade 9 in school year 2009-2010. The committee member said that it had come to her attention that superintendents who sent a request to PED a year ago had not yet received guidance on a provision to allow parents of a student to give written, signed permission for that student to "opt out" of Algebra II for a lesser course.

In response, Dr. Catherine Cross Maple, Deputy Secretary, PED, acknowledged that some committee members were concerned about how districts could advise incoming freshmen about their math requirements without a rule in place on the parental waiver; and she explained the department's plan to address the requirement in statute.

Dr. Cross Maple said that the math requirement would not affect students until their final year of high school. She said that by fall 2009 PED intended to propose a rule regarding the parental waiver that would uphold the intended rigor of the new high school requirements. She also noted that, whatever math courses students take, the 11<sup>th</sup> grade standards-based assessment is the same for all; furthermore, she added, that test will serve as the high school exit exam. Those who cannot pass it will still have to demonstrate competency on state standards by alternate means in order to graduate.

Committee members and speakers from the audience recalled that, at the presentation at the August LESC meeting regarding implementation of high school redesign, PED indicated it would propose a rule providing that the parental waiver could not be signed until a student took the 11<sup>th</sup> grade standards-based assessment. They expressed concern that students were not being advised early in high school about their mathematics options to ensure a successful high school

career, and that without appropriate math options, non-college bound students could be set on a path to failure and dropping out. A committee member pointed out that the statutory language does not place any conditions on the parental waiver. Dr. Cross Maple agreed that PED would move forward immediately to promulgate a rule regarding the parental waiver without the proposed condition regarding the 11<sup>th</sup> grade assessment.

In response to a committee member's question whether the P-20 data system will eventually include Bureau of Indian Education (BIE) schools, Ms. Carrera noted that currently PED calculates only adequate yearly progress (AYP) data for these schools.

Finally, several committee members expressed concern regarding instances in which students drop out of school and the school district cannot track what happened to them. Ms. Carrera indicated that PED can track where students went if school districts enter information into "entry" and "withdrawal" data fields in STARS, but she added that school districts sometimes have difficulty obtaining that information.

#### ***b. Electronic Student Management System Demonstration***

Senator Nava recognized Mr. Joel Nudi, IT Project Manager, PED, for a demonstration of the Electronic Student Management System (ESMS), an individual student-based, interactive system for personal management and review of requirements associated with graduation and preparation for college or the work force. The system, also known as "Carve Your Path," Mr. Nudi said, is a collaborative between PED, HED, the Department of Workforce Solutions (DWS), the Children, Youth and Families Department (CYFD), and the College Success Network (CSN).

Mr. Nudi described "Carve Your Path" as an online one-stop "user interface" for PED, HED, DWS, and CSN programs and initiatives. He said the system will:

- be accessible to all current or prospective New Mexico students and residents;
- provide a platform for:
  - Next-Step Plans;
  - electronic portfolios that include scores on the high school graduation assessment, college- and work force-readiness assessments and other placement tests; and
  - electronic transcripts;
- provide high school students with a place to compile graduation requirements;
- show students the high school preparation necessary for a postsecondary education or career;
- link to external websites and return support service and program information to the student;
- link to DWS portals for career exploration and planning and work force opportunities in New Mexico, and show educational requirements for each career aspiration; and
- link to postsecondary educational opportunities in the state and facilitate applying for college admissions and financial aid.

He noted that the project has been funded by two main sources:

- \$1.5 million appropriated by the Legislature to PED in the *General Appropriation Act of 2008* for the 11<sup>th</sup> grade assessment, and reauthorized in 2009; and
- \$1.3 million in funds granted to HED by the US Department of Education (USDE) under the College Access Challenge (CAC) Grant program.

Mr. Nudi also informed the committee that “Carve Your Path” will be tested at pilot sites in Carlsbad, Roswell, Alamogordo, Farmington, Santa Fe, Belen, and Albuquerque in September 2009. The system will expand to include additional public school, higher education, and DWS sites in January 2010. It is scheduled to be fully operational by June 25, 2010.

Finally, Mr. Nudi provided a demonstration of the system.

### **Committee Discussion:**

In response to a committee member’s question in what grades students may begin using “Carve Your Path,” Mr. Nudi replied they could start accessing it as early as sixth grade, but it would be most useful in grade 8 through high school.

Several committee members expressed support for the program, particularly the ability of the program to show students the high school preparation necessary for a particular career.

In response to a committee member’s question where and how students could access the program, Mr. Nudi replied that access was available anywhere with internet access, including from hand-held wireless devices such as iPhones.

Several committee members asked about remaining funding to implement the program. Mr. Nudi indicated that the remaining funds would provide for continued development and marketing. He also said that the CAC grant was in its second year of funding, and that the departments involved intended to apply for a second round of funding.

## **WORKING WITH YOUR PBS STATION FOR EDUCATION**

Senator Nava recognized Ms. Polly Anderson, General Manager & CEO, KNME-TV; and Mr. Glen Cerny, General Manager, KRWG-TV, New Mexico State University, to address the committee on the subject of educational services for students, parents, teachers, and others provided by the Public Broadcasting System (PBS) in addition to broadcast programs.

Ms. Anderson introduced her presentation by noting PBS’s national role as the leading provider of educationally sound media for young children, and she noted other initiatives such as media, teaching plans and courses for teachers and child care providers via [www.pbsteachers.org](http://www.pbsteachers.org), the federally funded teacher training program “Ready to Teach.” She then focused her presentation on one such project, the PBS Digital Learning Library (DLL).

According to Ms. Anderson, KNME in Albuquerque is one of 16 pilot station partners in the PBS DLL project. The DLL is designed to give teachers and students access to “high-quality, purpose-built digital media assets” cleared for their use and proven to build 21<sup>st</sup> Century skills in



flexible learning environments, fully integrated into state systems. PBS has partnered with the Council for Chief State School Officers (CCSSO) to establish a delivery platform to support and enhance long-term relationships between stations and states. PBS stations will deliver locally produced media to local communities, supported by “a world-class technical platform and the nation’s best content producers.”

Ms. Anderson gave an overview of the system architecture and curriculum framework, and she explained that the DLL included a growing collection of high-quality, teacher-tested electronic video, audio, images, documents, interactive media and links that span the full-range of PreK through college curricula. These resources are identified and searchable based on title, grade level, core subject area, curriculum standards, and keywords, delivered with applications enabling teachers and students to use them creatively to search, assign, save, share, adapt, and modify. Ms. Anderson noted that PBS is targeting science, technology, engineering, and mathematics (STEM) content, and that the Corporation for Public Broadcasting has provided \$1.0 million for STEM Digital Media Resources for Learning Production Grants for eight stations to create CLL content at the mid-school level with an emphasis on climate science.

### **Committee Discussion:**

In response to a committee question regarding state legislative support for public television, Ms. Anderson noted that, in addition to recurring support, several years ago there was a special appropriation for the transition of all three state public broadcasting stations to digital; in addition, the stations will be building out a fiber-optic connection between Santa Fe and the three public stations in Albuquerque, Las Cruces, and Portales. She said that recurring state support for the PBS stations had been about \$1.1 million each; in FY 09 there was a rescission of about 1.0 percent and in FY 10 a cut of approximately 11 percent to each station. Ms. Anderson added that an additional cut would affect the ability of stations to do local production and programming.

Mr. Cerny noted that “Ready to Learn,” the televised teacher training program, was offered in a bilingual format, and that all three stations were offering “De Me,” the Spanish-language PBS station, which includes Spanish versions of Sesame Street and other children’s educational programming.

## **DIRECTOR’S REPORT**

### ***a. Approval of LESC Minutes for June 2009***

Upon a motion by Representative Hall, seconded by Representative Stewart, the committee unanimously approved the LESC minutes for June 2009.

### ***b. Correspondence and News Stories***

Ms. Ramírez-Maestas reviewed several items of correspondence and news articles included in the committee members’ notebooks, adding that these items are also included in the permanent file in the LESC Office.

***c. Written Report: Teaching License Gifted Education Endorsement, SM 81, 2009***

Ms. Ramirez-Maestas recognized Ms. Pamela Herman, LESC staff, for an overview of the final recommendations of a 2009 interim work group convened by the Public Education Department (PED) to address a 2009 memorial: Senate Memorial 81, *Teaching License Gifted Education Endorsement*. Ms. Herman explained that the memorial requested that PED collaborate with state postsecondary educational institutions, gifted education organizations, and the LESC to determine the requirements for a gifted education endorsement on teaching licenses.

Directing the members to that item under the Director's Report included in the committee notebooks, Ms. Herman reported that the work group recommendations would be considered by PED in drafting a proposed department rule.

Senator Nava, on behalf of the committee, requested that the rule be presented to the full committee, with members of the work group in attendance, at the October interim LESC meeting.

### **DUAL CREDIT PROGRAM REPORT**

Senator Nava recognized Dr. David Harrell, LESC staff, to present a report on the statewide dual credit program. Dr. Harrell noted three items in the committee members' notebooks – the report itself; an appendix to the report that provides brief explanations of other issues affecting the implementation of the dual credit program; and a PowerPoint produced by the Higher Education Department (HED) illustrating student, course, and institutional data about the program.

Dr. Harrell also acknowledged a number of people in the audience available to respond to questions about the program: from HED, Dr. Rick Scott, Director of P-20, Ms. Ally Hudson, P-20 Policy Analyst, Mr. Yash Morimoto, Senior Research Analyst, and Ms. Tyler Weldon, Director of Planning and Research; from the Public Education Department (PED), Dr. Catherine Cross Maple, Deputy Secretary for Learning and Accountability, and Dr. Melissa Lomax, Bureau Chief, Career Technical and Workforce Education Bureau; from the New Mexico Coalition of School Administrators, Mr. Tom Sullivan, Executive Director; from the New Mexico Association of Community Colleges, Mr. Ty Trujillo, Executive Director; from Albuquerque Public Schools, Dr. Rose-Ann McKernan, Executive Director of Instructional Accountability; and from Aztec Municipal Schools, Dr. Linda Paul, Superintendent, and Ms. Deborah Duncan, Counselor.

Dr. Harrell began the presentation by explaining that the dual credit program allows a high school student to take a course offered through a postsecondary educational institution and to earn credit at the high school level and the college level simultaneously. He then highlighted some of the benefits attributed to dual credit programs, among them:

- providing high school students an introduction to college life – or, in the words of one researcher, “demystifying [the college] experience for students”;
- affording high school students access to college-level material; and
- shortening the time – and thereby the expense – required to complete a postsecondary degree.

The LESC, Dr. Harrell continued, has taken a formal interest in dual credit at least since the 2003 interim. More recently, in 2007 the LESC endorsed successful legislation to create, for the first time, a dual credit program in state law. Among other provisions now in law:

- courses taken for dual credit may be academic or career-technical but not remedial or developmental;
- to participate in the program students must meet two eligibility criteria:
  - enrollment in a regular public school, charter school, or state-supported school in one-half or more of the minimum course requirements; and
  - permission from a school counselor, the school principal, or the head administrator of a charter school;
- the secondary school must pay for required textbooks and any course supplies; and
- the public postsecondary educational institution must waive all general fees, and, through an adjustment to the higher education funding formula, the institution is expected to waive tuition.

In 2009, Dr. Harrell continued, the LESC endorsed another dual credit measure that would have created a fund to help secondary schools provide the required textbooks and course supplies. The bill itself did not pass, but the appropriation of \$1.5 million for that purpose was included in the *General Appropriation Act of 2009*.

Because school year 2008-2009 marked the first full year of implementation for the new program, with laws and agency rules in effect, the 2009 interim, Dr. Harrell said, seems to be a good time to examine how the program is developing. He added, however, that in some ways school year 2008-2009 was as much a transition year as it was an implementation year.

Dr. Harrell explained that, while it addresses a number of other issues as well, the LESC staff examination of the dual credit program focuses on the two fundamental issues that prompted the 2007 legislation in the first place, as expressed in testimony to the committee as early as 2003:

- (1) the need for reliable data; and
- (2) the need for uniformity in program features and requirements.

While progress has been made on both fronts, Dr. Harrell said, the report will show that issues remain in each case.

Dr. Harrell noted extensive support for the dual credit program throughout the state. For one thing, he said, enrollment has increased: from estimated figures of 6,000 to 7,000 during school year 2007-2008, actual enrollment during school year 2008-2009 grew to almost 10,000, with nearly 2,000 of those students taking two or more classes. For another, respondents to an LESC questionnaire expressed strong support for the program across all school levels.

Regarding the first of the two fundamental issues, the need for reliable data, Dr. Harrell said that much more is known about dual credit than before. Whereas in the past there was no certainty even about the number of students taking classes for dual credit, HED can now report not only the number of students but also their gender, ethnicity, high school grade level, number of classes taken, frequency of subjects taken, and grades earned (by gender and ethnicity). At the

institutional level, HED data reveal numbers and percentages of dual credit enrollment, methods of course delivery and locations of courses, average GPA per course location, and average GPA per course location and institution. Despite this progress, however, Dr. Harrell said, HED and PED are still not in agreement on the basic data points partly because of incomplete data submissions by districts. Both agencies, he added, continue to work toward uniform data sets.

Regarding the second of the two fundamental issues, the need for uniformity in program features and requirements, Dr. Harrell first enumerated several provisions and requirements now in effect to facilitate the uniform management of dual credit throughout the state.

- HED and PED have promulgated identical rules to address the details of the program, and they collaborate on any proposed amendments.
- Secondary and postsecondary schools are using a uniform master agreement intended to standardize dual credit arrangements.
- Students participating in the program complete a request form that requires a variety of standard demographic information, including the PED-issued student identification (ID) number.

Despite these provisions to facilitate uniformity, however, Dr. Harrell said that considerable variety still exists in the ways that dual credit courses are handled in terms of student eligibility, courses offered, the uniform master agreements, course locations, and compensation for high school teachers who teach classes for dual credit.

Dr. Harrell then provided information about other aspects of the dual credit program:

- In late August 2009, he said, the Secretary of Public Education sent a memorandum to the superintendents of school districts and the directors of charter schools outlining the process for distributing the \$1.5 million for dual credit textbooks and course supplies: the first allocation of approximately \$1.0 million by late October or early November 2009 and the second in February 2010.
- State-supported schools face special circumstances and challenges in participating in the dual credit program, among them accommodations for students confined to juvenile justice facilities and for students with sight or hearing disabilities.
- Among the barriers that respondents to the LESC questionnaire identified were the high cost of textbooks and cumbersome logistics of obtaining them; the difficulties of students' obtaining transportation to the site of a dual credit class; and competition and confusion among similar programs such as concurrent enrollment, articulated courses, Advanced Placement (AP), and middle college high schools.
- The one recommendation for change to the program made by both secondary and postsecondary school respondents was to increase the availability of core courses for dual credit.
- As required by law, HED and PED will be conducting an evaluation of the dual credit program. The LESC expects to receive the evaluation by December 2009.

Dr. Harrell concluded his presentation with a policy option and a personal observation.

- As a policy option, the LESC may wish to introduce a memorial requesting that HED and PED convene a broadly representative work group to develop a master plan for accelerated learning that would offer high school students a number of options for study at the postsecondary level. This plan for accelerated learning could not only address the issues related to dual credit as identified in this report and the appendix (and perhaps in the subsequent evaluation of the program by HED and PED); but it could also identify ways in which the various programs – dual credit, AP, articulated courses, concurrent enrollment, and middle college high school – could complement rather than compete with each other in the P-20 system by identifying the population and circumstances that each program can serve most effectively. The plan could also include the necessary agency oversight to ensure faithful and effective implementation.
- As a personal observation, Dr. Harrell described his impression that educators at all levels not only believe in the dual credit program but also have strong feelings about it; and that, in general, they are doing their best to implement the program as intended and, at the same time, to meet the needs of their students. When things have not gone well, he added, the cause is as much a communication issue as anything else – whether the communication has been misdirected, misinformed, incomplete, or delayed. It became clear, Dr. Harrell concluded, that many school officials are not as familiar with the details of the program as they should be – or as they want to be.

### **Committee Discussion:**

In response to a committee member's question about the difference between dual credit and concurrent enrollment, Dr. Harrell explained that courses taken under the dual credit program are supported by state funds and they must meet the criteria in law. Courses taken as concurrent enrollment are through another sort of agreement between a secondary and a postsecondary school, they typically earn credit at the college level only, and the tuition may be waived or the students may be required to pay both tuition and textbook costs. The term "concurrent enrollment," Dr. Harrell added, is also defined in the dual credit rules promulgated by HED and PED.

In response to a committee member's question about data collection and student ID numbers, Dr. Harrell explained that much of the dual credit data is obtained from the request form that students must complete to register for dual credit classes and that the student ID number is one of the data points on the form. Mr. Morimoto added that in most cases the student request form does contain the ID number. When it does not, HED can consult with PED. In addition, Mr. Morimoto said that HED has advised postsecondary educational institutions that they will receive tuition credit for dual credit classes only if the student ID number is in place.

In response to a committee member's question about the potential conflict between dual credit classes and AP classes, Dr. Harrell said that, although the two programs serve different purposes and perhaps attract different audiences, they sometimes compete for instructors. Mr. Sullivan concurred, adding that there are sometimes questions about relative rigor between the two programs and transferability of credits earned: that is, whereas AP classes are recognized across the country, dual credit classes will earn credit with in-state institutions. On that point,

Ms. Hudson noted that not all institutions throughout the country agree on which AP scores to accept.

In response to a committee member's question about dual credit classes taught on high school campuses, Ms. McKernan said that, with Albuquerque Public Schools, postsecondary faculty members often go to the high school campuses and that any high school teachers who teach dual credit classes are certified by the college. Dr. Harrell added that, according to responses to the LESC questionnaire, most of the dual credit courses offered on high school campuses are taught by college faculty members.

In response to a committee member's question about the credit ratio between high school units and college credit hours, Dr. Harrell said that, for elective courses, the credit ratio is three hours of college credit per one unit of high school credit. For core courses, the ratio may be different depending upon the circumstances. If the secondary and postsecondary schools think a different ratio is warranted, they may appeal to the Dual Credit Council (a six-member advisory body – three each from HED and PED – that advises their respective secretaries about issues outside the scope of the uniform master agreement).

In response to a committee member's question about Native American students taking classes for dual credit and Bureau of Indian Education schools' possible participation in the program, Dr. Scott said that many public schools with Native American students are participating in the program and that many BIE schools have made arrangements with postsecondary institutions for their students to take classes under concurrent enrollment.

In response to a similar question, Dr. Cross Maple alluded to a letter from the Assistant General Counsel at PED regarding an arrangement between Central Consolidated Schools (CCS) and Navajo Technical College (NTC). As that letter explains, CCS students could take classes at NTC under concurrent enrollment, but they would not be part of the dual credit program.

## **COMMUNITY INITIATIVES (Continued)**

### ***c. Teach for America***

For a presentation on Teach for America (T4A), the Chair recognized Mr. Andy Kopplin, Senior Advisor to the President and CEO, Teach for America; Mr. Landon Mascareñaz, Executive Director, Teach for America-NM; and Ms. Alberta Nozzie, Principal, Thoreau Middle School, Gallup-McKinley County Public Schools (GMCS).

Mr. Mascareñaz said that, for 20 years, T4A had been a national corps of outstanding recent college graduates who commit to teach for two years in America's neediest schools. The process is highly competitive, he said, selecting just the best-qualified 4,100 candidates from over 35,000 applicants nationwide. He said that T4A had 35 sites across the country and had been in New Mexico since 2001. He said that in school year 2009-2010, T4A had placed 100 teachers in the state, its largest corps ever, in GMCS, Central Consolidated Schools, Zuni Public Schools, Grants-Cibola County Schools, and Bureau of Indian Education schools, where approximately 98 percent of students were Native American. In all, Mr. Mascareñaz said, T4A had placed over 250 teachers in New Mexico schools, and 100 corps alumni remained in the state. He said T4A recruits the most successful classroom teachers to coach corps members as they work through

University of New Mexico (UNM), Western New Mexico University (WNMU), and Santa Fe Community College (SFCC) to earn alternative teacher licensure during their two-year assignments.

Mr. Mascareñaz referred to a document in committee notebooks showing results of national research that corps members' impact on student achievement was at least as great as that of other new teachers, and that it exceeds that of other teachers, even veteran fully certified teachers, in the same schools. He observed that local evidence of impact included the fact that the top three 8<sup>th</sup> grade science teachers in GMCS (as shown by student test scores) were all T4A teachers or alumni; and that three T4A teachers in GMCS were in "model classrooms," nominated by their instructional coaches for using a systems approach at an exemplary level. He said that a survey of principals showed that 95 percent report being satisfied or very satisfied with the T4A teachers at their schools.

Mr. Mascareñaz told the committee that T4A hoped to expand in New Mexico, to 15 northern school districts in partnership with SFCC and New Mexico Highlands University; to Albuquerque and Los Lunas in partnership with UNM; and to eight southern districts in partnership with New Mexico State University (NMSU). If this hope was realized, T4A could place over 400 teachers in New Mexico schools who would have an impact on more than 20,000 students each year.

Ms. Nozzie told the committee that she had had nothing but good experiences with T4A teachers in Thoreau Middle School over nine years. She said they bring energy, enthusiasm and knowledge to their classrooms, work well with veteran teachers, take on many extracurricular activities, and contribute to student achievement.

Mr. Kopplin said that he understood that New Mexico planned to submit an application for a federal Race to the Top grant, and he requested that the committee write a letter to the Public Education Department (PED) endorsing the inclusion of T4A in its proposal.

### **Committee Discussion:**

Senator Lovejoy stated that she believed that T4A could be very successful in rural Indian communities, just as Legal Services projects in the past had brought new lawyers into communities to do excellent work.

Senator Muñoz indicated that he had heard very good reports about T4A teachers, and that the 60 T4A teachers in GMCS were filling positions that otherwise could have remained unfilled.

A committee member expressed a concern about how T4A and its teachers interacted with the Indian Education Department at PED and the Indian Advisory Council, and wondered how much training the teachers received about Indian culture and traditions. This committee member also indicated that it was important to see the results from the \$500,000 earmarked for T4A in the 2009 session and to ensure that the current effort was maintained, before expanding to other areas of the state.

In response to a committee member's question regarding other funds to support T4A in New Mexico, Mr. Mascareñaz stated that T4A had a grant from Americorps, and that about 70 percent of its funding came from the Daniels Fund and other private sources.

In response to a committee member's question regarding T4A recruitment and placement procedures, Mr. Mascareñez said that the organization accepted applications four times a year from students at 400 colleges and universities across the country. Ms. Nozzie said that schools choose five candidates for each position, who visit the district for face-to-face interviews.

In response to a committee member's question regarding T4A teacher licensure, Mr. Mascareñez said that corps members must be highly qualified in their content areas, apply for an internship license when selected, and begin their licensure work during the summer before their first year of teaching and complete it while working.

In response to a committee member's question how T4A corps members deal with second language learners, Mr. Mascareñez said that the T4A summer training for new teachers involves one week in Gallup followed by five weeks in Phoenix where teaching English language learners is the focus.

In response to a committee member's question regarding whether T4A's sole-source contract with the state experienced roadblocks, Mr. Mascareñez said that the contract was still in the approval process at the Department of Finance and Administration.

Representative Stewart made a motion, seconded by Senator Nava, that the committee send a letter to the Secretary of Public Education to include Teach for America in the state's Race to the Top application. The motion passed unanimously.

There being no other business, the Chair, with the consensus of the committee, recessed the LESC meeting at 4:30 p.m.

### **MINUTES LESC MEETING SEPTEMBER 16, 2009**

Senator Cynthia Nava, Chair, called the Legislative Education Study Committee (LESC) meeting to order at 8:15 a.m. on Wednesday, September 16, 2009, in the Board Room of Gallup-McKinley County Public Schools, 640 South Boardman, Gallup, New Mexico.

#### **The following LESC members were present:**

Senators Cynthia Nava, Chair, Mary Jane M. García, and Lynda M. Lovejoy; and Representatives Rick Miera, Vice Chair, Jimmie C. Hall, and Dennis J. Roch.

#### **The following LESC advisory members were present:**

Senator John Pinto; and Representatives Mary Helen Garcia and Shirley A. Tyler.

Also in attendance was Representative Patricia A. Lundstrom.



**NEW MEXICO PUBLIC SCHOOL INSURANCE AUTHORITY (NMPSIA)/  
ALBUQUERQUE PUBLIC SCHOOLS (APS):  
FY 10 PLAN CHANGES AND FY 11 REQUESTS**

Senator Nava recognized Mr. Peter B. van Moorsel, LESC staff, who presented a staff report on public school insurance, including:

- FY 10 plan changes regarding insurance premium increases faced by the New Mexico Public School Insurance Authority (NMPSIA) and Albuquerque Public Schools (APS);
- the FY 11 requests for NMPSIA and APS insurance premium increases; and
- background information on public school insurance in New Mexico.

Mr. van Moorsel was joined by Mr. Sammy Quintana, Executive Director, and Ms. Christy Edwards, Deputy Executive Director, NMPSIA. Mr. van Moorsel also acknowledged several representatives from APS: Mr. Dupuy Bateman, Chief Financial Officer; Ms. Andrea Trybus, Executive Director, Human Resources; and Ms. Vera Dallas, Director, Employee Benefits.

Mr. van Moorsel explained that charter schools and most school districts participate in NMPSIA, while APS is self-insured. He added that, if funding is available, each year the Legislature appropriates funds for both agencies to provide for projected increases in the employer's group health and risk insurance contribution rates, based on the agencies' respective appropriation requests for funding to provide for anticipated insurance claims, administrative costs, and reserves in the next fiscal year. He also stated that NMPSIA and APS may elect to use reserve fund balances, if available, to reduce the projected increases for both the employer and the employee.

Mr. van Moorsel reported, however, that funding was not available for FY 10 to provide for the employer's share of increased insurance premiums for either NMPSIA or APS, and changes in the plans were required to offset the increases. He stated that both agencies were requested to develop alternative solutions to meet any premium increases, such as using reserve fund balances or changing plan benefits.

According to Mr. van Moorsel, NMPSIA requested a funding increase of approximately \$5.4 million for FY 10 and projected a "zero" fund balance by June 30, 2009 because of a substantial increase in both the utilization and the cost of medical services. Without additional funding available to cover increased insurance costs, the agency reduced the plan's benefits, effective July 1, 2009. The reductions included implementing a \$2,800 out-of-pocket limit on the copays, co-insurance, and deductibles; a \$300 calendar year deductible; and 20 percent co-insurance, meaning that, once the deductible is met, the member must pay 20 percent of medical costs until reaching the out-of-pocket limit. Finally, the plan changes also required the member to pay 70 percent of the cost of non-formulary prescriptions.

Mr. van Moorsel reported that APS requested an additional \$5.8 million for the employer's share of increased insurance premiums; and because no state funds were available, the APS Board of Education approved using approximately \$3.5 million in reserve insurance funds to offset the increase faced by employees by 5.0 percent. Mr. van Moorsel added that the board also changed the plan, effective December 1, 2009, by increasing by 5.0 percent the cost of medical insurance for district employees, which equates to approximately \$5.00 per paycheck for family coverage for an employee earning less than \$29,000 per year; and \$11 for those earning \$29,000 or more

per year. The board also increased to \$750 (from \$500) the cost for in-patient hospital visits; increased office visit copays by \$5.00 to \$25; and increased specialist copays by \$5.00 to \$30.

Mr. van Moorsel stated that, for FY 11, NMPSIA has requested approximately \$9.5 million for the employer's share of increased insurance premiums. The benefits portion of the request considers a 15.8 percent increase in medical insurance premiums; a 10.8 percent increase in dental premiums; no increases for vision and life; and a 35 percent increase for disability insurance.

Mr. van Moorsel explained that NMPSIA reported a negative \$7.4 million fund balance as of June 30, 2009 and that maintaining the reduced FY 10 benefits with no appropriation to fund increased premiums would result in a projected fund deficit at approximately \$30 million at the end of FY 11. In this case, he stated, NMPSIA would need to reduce benefits further, by increasing the \$2,800 out-of-pocket limit to \$4,900; increasing the \$300 deductible to \$500; increasing the 20 percent co-insurance on medical services to 30 percent; increasing prescription and office visit copays; increasing the \$50 dental deductible to \$100; and reducing the disability benefit from 66 and 2/3 percent to 50 percent.

Regarding the risk program, NMPSIA's FY 11 request reflected a "zero" percent increase in property, liability, and worker's compensation premiums.

Mr. van Moorsel next discussed the APS FY 11 insurance request for approximately \$4.6 million for the employer's share of increased insurance premiums, which considered an 8.1 percent increase in medical insurance premiums effective December 1, 2010; a 6.0 percent increase in dental insurance premiums; a 5.0 percent increase in vision insurance premiums; and no increases for life and disability insurance. According to APS, the district's June 30, 2009, unaudited fund balance was \$8.7 million, and the district projects the fund balance to be \$1.3 million by November 30, 2010. Mr. van Moorsel added that the request for the risk program includes a 7.0 percent increase in property and liability premiums and a 4.0 percent increase for worker's compensation claims.

Mr. van Moorsel discussed one other insurance-related issue: a statutory change enacted after the 2009 session and taking effect on July 1, 2010 enables NMPSIA to promulgate rules to establish a policy for participating members relating to the use of volunteers, as well as a policy relating to the use of school facilities by private persons. NMPSIA may insure participating members against claims of bodily injury, personal injury, or property damage related to the use of school facilities by private persons, provided that no more than \$1.0 million be paid for each occurrence; and the coverage applies only if the participating member was following NMPSIA's policy.

#### **Committee Discussion:**

In response to a committee member's question whether NMPSIA maintains a balance in its fund, Ms. Edwards responded that the authority maintains a balance of approximately \$22 million for claims that have been incurred but not reported (IBNR). Ms. Edwards added that increased claims have resulted in a reduction in this balance.

In response to a committee member's question regarding the preferences of NMPSIA's members, Ms. Edwards stated that a survey of members showed that the majority would prefer to pay higher premiums than face a reduction in benefits.

The Chair requested that NMPSIA provide a copy of the survey.

In response to a committee member's question regarding reduced benefits, Ms. Edwards provided an example explaining the effect of a higher copay percentage, as well as a higher out-of-pocket limit. She stated that a higher copay would mean that the insured would have to pay a higher percentage of medical services until the out-of-pocket limit is reached. Increasing the out-of-pocket limit, she stated, would require the insured to pay more for medical services before being fully covered.

## **ADJOURNMENT**

There being no further business, with the consensus of the committee, Senator Nava adjourned the LESC meeting at 9:34 a.m.

CYN Chair

December 15, 2009 Date